

105TH CONGRESS
2D SESSION

H. R. 4521

To amend the Internal Revenue Code of 1986 to provide that the dollar limitation on the estate tax deduction for family-owned business interests shall not apply to interests in a business owned by a single family.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 7, 1998

Mr. WELLER introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide that the dollar limitation on the estate tax deduction for family-owned business interests shall not apply to interests in a business owned by a single family.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family Business and
5 Family Farm Preservation Act of 1998”.

1 **SEC. 2. LIMITATION ON ESTATE TAX DEDUCTION FOR FAM-**
 2 **ILY-OWNED BUSINESS INTERESTS NOT TO**
 3 **APPLY TO INTERESTS IN A BUSINESS OWNED**
 4 **BY A SINGLE FAMILY.**

5 (a) IN GENERAL.—Subsection (a) of section 2057 of
 6 the Internal Revenue Code of 1986 (relating to family-
 7 owned business interests) is amended by adding at the end
 8 the following new paragraph:

9 “(4) LIMITATION NOT TO APPLY TO SINGLE
 10 FAMILY BUSINESSES.—Paragraph (2) shall be ap-
 11 plied by not taking into account any deduction under
 12 this section for interests in—

13 “(A) any sole proprietorship, or

14 “(B) any entity if 100 percent of such en-
 15 tity is owned (directly or indirectly) by the dece-
 16 dent and members of the decedent’s family.”

17 (b) ADDITIONAL ESTATE TAX DEDUCTION RECAP-
 18 TURED IF REINVESTMENT REQUIREMENT NOT MET.—
 19 Subsection (f) of section 2057 of such Code (relating to
 20 tax treatment of failure to materially participate in busi-
 21 ness or dispositions of interest) is amended by adding at
 22 the end the following new paragraphs:

23 “(3) REINVESTMENT REQUIREMENT ON ES-
 24 TATES TO WHICH DOLLAR LIMITATION ON DEDUC-
 25 TION DID NOT APPLY.—

1 “(A) IN GENERAL.—In the case of an es-
2 tate with respect to which the deduction under
3 this section exceeded \$675,000 by reason of
4 subsection (a)(4), the failure to meet the rein-
5 vestment requirement of paragraph (4) shall be
6 treated as referred to in a subparagraph of
7 paragraph (1) of this subsection.

8 “(B) AMOUNT OF TAX.—If tax is imposed
9 by this subsection by reason of a failure to meet
10 the reinvestment requirement of paragraph (4)
11 for any taxable year—

12 “(i) the applicable percentage shall be
13 10 percent (in lieu of the percentage deter-
14 mined under paragraph (2)), and

15 “(ii) the adjusted tax difference shall
16 be determined by taking into account only
17 that portion of the value of the qualified
18 family-owned business interests involved
19 which bears the same ratio to such value
20 as the excess for such year of the adjusted
21 net earnings over the reinvestment amount
22 bears to the reinvestment amount.

23 “(C) SPECIAL RULE.—Tax shall be im-
24 posed by this subsection by reason of a failure
25 only to the extent that the value (for purposes

of this chapter) of the qualified family-owned business interests involved in such event, when increased by the value (for such purposes) of qualified family-owned business interests with respect to which prior recapture events have occurred (whether or not tax was imposed by this subsection on such prior events), exceeds \$675,000.

“(D) EXTENSION OF 10-YEAR PERIOD.—

“(i) INCREASE IN REINVESTMENT REQUIREMENT BY REASON OF AUDIT.—In the case that the reinvestment amount is increased for a taxable year after examination or assessment by the Secretary, the 10-year period referred to in paragraph (1) shall be extended for an additional year.

“(ii) REINVESTMENT REQUIREMENT IMPOSSIBLE TO MEET DUE TO UNFORESEEN CIRCUMSTANCES.—In the case of a failure to meet the reinvestment requirement of paragraph (4) due to unforeseen circumstances, the Secretary may extend the 10-year period referred to in paragraph (1) for a reasonable period in accordance with section 6161.

1 “(4) REINVESTMENT REQUIREMENT.—

2 “(A) IN GENERAL.—The reinvestment re-
 3 quirement of this paragraph is met with respect
 4 to a sole proprietorship or entity for any tax-
 5 able year if the reinvestment amount for such
 6 year is not less than the adjusted net earnings
 7 of the proprietorship or entity for such year.

8 “(B) REINVESTMENT AMOUNT.—For pur-
 9 poses of this paragraph, the term ‘reinvestment
 10 amount’ means, with respect to any taxable
 11 year, the sum of—

12 “(i) the increase during the taxable
 13 year in net asset investment in the same
 14 trade or business, and

15 “(ii) the increase during the taxable
 16 year in working capital of the same trade
 17 or business.

18 “(C) INCREASE IN NET ASSET INVEST-
 19 MENT.—For purposes of this paragraph—

20 “(i) DETERMINATION OF INCREASE.—
 21 The increase during the taxable year in net
 22 asset investment is an amount equal to the
 23 excess (if any) of—

24 “(I) the net asset investment as
 25 of the close of the taxable year, over

1 “(II) the net asset investment as
2 of the close of the preceding taxable
3 year.

4 “(ii) NET ASSET INVESTMENT.—The
5 term ‘net asset investment’ means the ex-
6 cess (if any) of—

7 “(I) the aggregate adjusted bases
8 of qualified assets held by the tax-
9 payer for use in the active conduct of
10 a trade or business, over

11 “(II) the aggregate outstanding
12 amount of indebtedness of the tax-
13 payer which was incurred to acquire
14 or improve qualified assets so held.

15 “(iii) QUALIFIED ASSET.—The term
16 ‘qualified asset’ means any tangible or in-
17 tangible property other than property de-
18 scribed in subsection (e)(2)(D).

19 “(D) ADJUSTED NET EARNINGS.—For
20 purposes of this paragraph, the term ‘adjusted
21 net earnings’ means taxable income—

22 “(i) increased by the sum of—

23 “(I) the amount of interest re-
24 ceived or accrued by the taxpayer dur-

1 ing the taxable year which is exempt
2 from tax, and

3 “(II) the amount allowed for de-
4 preciation or amortization, and

5 “(ii) decreased by the tax imposed by
6 chapter 1 for the taxable year.”

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to estates of decedents dying after
9 the date of enactment of this Act.

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